

**SETTLEMENT AGREEMENT AMONG THE UNITED STATES DEPARTMENT OF THE INTERIOR,
On Behalf Of THE U.S. FISH AND WILDLIFE SERVICE, THE CALIFORNIA DEPARTMENT OF
FISH AND GAME, THE NEVADA DIVISION OF ENVIRONMENTAL PROTECTION, THE NEVADA
DEPARTMENT OF WILDLIFE, AND ADVANCED FUEL FILTRATION SYSTEMS**

I. Introduction

The United States Department of the Interior, on behalf of the U.S. Fish and Wildlife Service ("FWS"), the California Department of Fish and Game ("CDFG"), the Nevada Division of Environmental Protection ("NDEP"), the Nevada Department of Wildlife ("NDOW") (the three latter agencies are referred to collectively as the "state agencies"), and Advanced Fuel Filtration Systems ("Advanced Fuel") (all referred to collectively as the "Parties") enter into this Settlement Agreement to resolve, without litigation, the FWS's and the state agencies' civil claims under the Oil Pollution Act of 1990, 33 U.S.C. §§ 2707 et seq. ("OPA 90"), California Fish and Game Code 2014 and § 5650 et seq., Nevada Revised Statutes 445A.300 et seq. for damages for injuries to natural resources resulting from the oil spill from Advanced Fuel's tanker truck into the east fork of the Walker River between Bridgeport, California and the Nevada border which occurred on December 30, 2000 (the "Incident"). The FWS and the state agencies are co-trustees of the injured natural resources, and this Settlement Agreement is executed on behalf of the FWS and the state agencies as co-trustees. The execution of this Agreement shall not constitute, nor is it in any way, an admission by any of the Parties of any liability.

II. Parties Bound

The provisions of this Settlement Agreement shall be binding upon the Parties and all of their officers, directors, agents, servants, employees, predecessors in interest, successors in interest, assigns, and all persons, firms, subsidiaries, divisions, or corporations acting under or for them relating to the Incident.

III. Definitions

Unless otherwise expressly provided herein, terms used in this Settlement Agreement which are defined in OPA 90 or in the natural resource damage assessment regulations promulgated under

OPA 90 shall have the meaning assigned to them in OPA 90 or in such regulations.

IV. Payment of Certain Costs and Damages

A. Within thirty (30) days after the effective date of this Settlement Agreement, Advanced Fuel shall pay to the co-trustees a total of four hundred eighteen thousand dollars (\$418,000). Of this amount, \$68,000 is to be paid to CDFG for its past assessment costs involved in determining the extent of damages to the natural environment, and the balance of \$350,000 is to be paid to the Department of the Interior to be utilized by the FWS and the state agencies for the restoration of natural resources injured in the Incident, including for their costs of restoration planning and oversight. In addition, FWS shall retain and utilize for restoration planning and oversight the remaining balance of the \$50,000 payment made to it by Advanced Fuel pursuant to a letter dated February 12, 2001.

B. Payment of the amount set forth in Section IV.A. to CDFG shall be in the form of a check payable to: The Department of Fish and Game. Include on the face of the check the following number: N400-H1578. At the time of payment, Advanced Fuel shall send a written notice of payment and a copy of any transmittal documentation to the following:

Gerald F. Kelly
Staff Counsel
Department of Fish and Game
Office of Spill Prevention and Response
P.O. Box 160362
Sacramento, California 95816-0362

C. Payment of the amount set forth in Section IV.A. to the Department of the Interior, on behalf of the co-trustees, shall be in the form of a check payable to the Department of the Interior, in accordance with instructions to be provided to Advanced Fuel by the FWS. At the time of payment, Advanced Fuel shall send a written notice of payment and a copy of any transmittal documentation to the following:

Charles McKinley
Office the Field Solicitor
U.S. Department of the Interior
1111 Jackson Street, Suite 735
Oakland, California 94607

D. Should Advanced Fuel fail to make any such payment when due, it shall pay as stipulated penalties for each day or portion thereof that said payment is overdue until the cumulative

accrued amount is paid in full, five hundred dollars (\$500).

E. Advanced Fuel shall be liable for attorneys' fees and costs incurred by the FWS and/or the state agencies to collect any amount due under this Settlement Agreement that is not timely paid.

**V. Covenants Not to Sue and Reservation of Rights
by the FWS and the State Agencies**

In consideration of the payments to be made by Advanced Fuel, FWS and the state agencies covenant not to sue Advanced Fuel, its successors, or its corporate officers, directors, or employees, acting in their capacities as such, for (i) damages for injury to, destruction of, loss of, or loss of use of, natural resources arising from the Incident, including natural resource damage assessment and restoration monitoring costs associated with the Incident; and (ii) other than as set forth in Section IV above, for costs, attorneys' fees, other fees, or expenses incurred by the FWS and the state agencies to recover such natural resource damages in connection with the Incident.

This covenant not to sue is not effective until, and is conditioned upon, complete and satisfactory performance by Advanced Fuel of its obligations under Section IV of this Settlement Agreement.

VI. Covenant Not to Sue by Advanced Fuel

Advanced Fuel hereby covenants not to sue and agrees not to assert any claims or causes of action against the United States or the States of California and Nevada, including any of their departments, agencies or instrumentalities, or their employees, agents, experts or contractors, for claims related to the Incident, including but not limited to:

- i) any direct or indirect claim for reimbursement from the Oil Spill Liability Trust Fund pursuant to 33 U.S.C. §§ 2708 and 2713 or any other provisions of law;
- ii) any claims arising out of any response activities undertaken for the United States or the States of California or Nevada;
- iii) any claims for costs, attorneys fees, other fees, or expenses incurred in connection with the Incident.

VII. Effective Date

The effective date of this Settlement Agreement shall be the date upon which the FWS issues

written notice to Advanced Fuel that all Parties have executed the Settlement Agreement and that it has been approved by the United States Department of Justice.

VIII. Signatories

Each undersigned representative of Advanced Fuel, the Office of Spill Prevention and Response, California Department of Fish and Game, the Nevada Division of Environmental Protection, the Nevada Division of Wildlife, and of the U.S. Fish and Wildlife Service, certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to execute and legally bind such party to this document.

VIII. Entire Agreement

This Agreement constitutes the final, complete, and exclusive agreement and understanding between the Parties with respect to the settlement embodied in the Agreement and supersedes all prior agreements and understandings, whether oral or written. No other document, nor any representation, inducement, agreement, understanding, or promise constitutes any part of this Agreement or the settlement it represents, nor shall it be used in construing the terms of this Agreement.

IX. Modification

The terms of this Agreement may be modified only by a subsequent written agreement signed by all of the Parties.

X. Execution

This Agreement may be executed in several counterparts, each of which shall constitute an original, and all of which shall constitute one and the same instrument.

XI. Public Comment

Final approval of this Agreement by the United States will be subject to public notice and comment. The United States may withdraw or withhold its consent if public comments disclose facts or considerations which indicate that the Agreement is inappropriate, improper, or inadequate. Advanced Fuel agrees not to withdraw its consent to this Agreement pending consideration of public comments and approval by the United States. Should the United States withdraw its approval, this

Agreement shall be null and void.

FOR ADVANCED FUEL FILTRATION SYSTEMS

Date: 11/14/03

Advanced Fuel Filtration Systems, Inc.
President/CEO

**FOR THE U.S. DEPARTMENT OF THE INTERIOR
on behalf of the U.S. FISH AND WILDLIFE SERVICE:**

Date: 12/2/03

Daniel Shillito,
Regional Solicitor
U.S. Department of the Interior

**APPROVED BY
THE UNITED STATES DEPARTMENT OF JUSTICE:**

Date: _____

W. Benjamin Fisherow
Deputy Section Chief
Environment and Natural Resources Division

FOR THE CALIFORNIA DEPARTMENT OF FISH AND GAME

Carlton D. Moore
Interim Administrator
Office of Spill Prevention and Response

Date: _____

12/26/08

FOR THE NEVADA DIVISION OF ENVIRONMENTAL PROTECTION

Allen Biaggi
Administrator

X Y

Date: _____

12/2/03

FOR THE NEVADA DEPARTMENT OF WILDLIFE

Terry Crawford
Director

Date: _____

12/03/03